

TENNESSEE BOARD OF DISPENSING OPTICIANS

DATE: March 30, 2005

TIME: 12:30 P.M.

LOCATION: Cumberland Room
Ground Floor, Cordell Hull Building
425 5th Ave. North
Nashville, TN 37247

BOARD MEMBERS

PRESENT: Kelly Godsey DPO, Chair
Kathy Hawkins DPO, Secretary
Happy Moyer DPO
Peggy Hannah DPO
Felda Stacey DPO
Edward Risby, Consumer Member

STAFF PRESENT: Joan Burk, Board Administrator
Nicole Armstrong, Advisory Attorney
Robbie Bell, Director
Rick Agee, Unit Director
Barbara Maxwell, Administrative Director
Stacy Lannan, Administrative Assistant/Lic. Tech.
Jerry Kosten, Rules Coordinator

Mr. Godsey, chair, called the meeting to order at 12:45 P.M. All board members were present.

Review Minutes

Upon review of the January 11, 2005 minutes, Ms. Moyer made a motion, seconded by Ms. Hannah, to approve the minutes as written. The motion carried.

Consent Order for Vickie Woodard

Ms. Elisha Hodge distributed a consent order for Vickie Woodard to the board members for their review. Ms. Hodge stated the respondent worked on a lapsed license from March 1, 2000 until October 22, 2003, at the Pearle Vision store she owns in Nashville, Tennessee. Ms. Hodge stated that the respondent allowed two unlicensed individuals to perform optical services in her store while she was out of town. The respondent was told to cease and desist from the practice of dispensing optician until such time as she is able to have her license reinstated. If Respondent ever desires to reinstate her license, her license shall be suspended for a period of six months. After the suspension is completed,

the Respondent's license shall then be placed on probation for six months. The respondent shall pay forty-four (44) Type C civil penalties in the amount of \$100 each for the 44 months she practiced on a lapsed license and one (1) Type A civil penalty in the amount of \$500 for allowing unlicensed individuals to perform optical services on customers during her absence from the store for a total of \$4,900.00. The Respondent signed the Consent Order on February 21, 2005 which allows the Board to issue its order without further process.

With no questions from the board members, Mr. Godsey asked the board to vote on the consent order. Ms. Moyer made a motion, seconded by Ms. Hannah to accept the consent order as written. The motion carried.

Conflict of Interest

Ms. Armstrong reviewed the conflicts of interest policy with the board asking the board members to disclose any conflict of interest they may have prior to contested cases or any other legal proceedings or matters to determine if there is a conflict of interest.

Office of General Counsel Report

Ms. Armstrong reviewed the Office of General Counsel Report with the board stating that the board has a roll call vote scheduled for today's meeting on Rule 0480-1-.05 regarding criminal background checks for applicants seeking initial licensure. Ms. Armstrong stated that there are currently eight (8) open cases pertaining to the Board of Dispensing Opticians, one of which we have heard today.

Investigative Report

Mr. Agee reviewed the investigations report stating there are eight (8) complaints year to date.

Disciplinary Report

Mr. Agee reviewed the disciplinary report with the board stating there are two (2) practitioners currently being monitored, one of which must serve one year probation upon reinstatement.

Mr. Agee reviewed the disciplinary list with the board stating this is a list of all practitioners who have been disciplined by this board along with the date and the reason for the action.

Financial Report

Mr. Agee reviewed the financial report with the board stating there was a carry over from June 30, 2004 of \$158,180.39.

Administrative Report

Ms. Burk reviewed the administrative report to the board stating there are 820 active licensees, 175 retired, 355 failed to renew and 94 deceased. Ms. Burk stated that between December 30, 2004 and March 15, 2005, 62 licensees have renewed their license. Of that total, 13 have renewed their license online.

Ms. Burk reminded the board that all travel requests must be submitted 120 days prior to the event for possible approval. Ms. Burk stated that all files have been imaged. Ms. Burk stated that the only outstanding project is the RFP for the practical examinations.

Mr. Godsey stated the RFP for Dispensing Opticians is in the Comptrollers Office and was approved by F&A. Mr. Godsey said they are anticipating having the exam in place by the end of May. Mr. Godsey said they will have more discussion about RFP when he has all the information.

Jerry Kosten, Rules Coordinator

Mr. Kosten stated a rulemaking hearing pertaining to the criminal background checks was held on March 17, 2005. Ms. Moyer made a motion, seconded by Ms. Hawkins, to adopt the rule for criminal background checks. The motion carried. A roll call vote was conducted and all board members voted in the affirmative.

Discuss continuing education credit for volunteer work

Ms. Armstrong stated we are looking to see if we can award credit for volunteer work. Ms. Armstrong said she would like to get some direction from the board on how to address this. After discussion, Ms. Moyer made a motion, seconded by Ms. Hannah, to take the information, study it and come up with some ideas for the next board meeting. The motion carried, all board members agreed to defer until next meeting.

Discuss and consider rescinding or amending the policy statement regarding licensees working on an expired license

Ms. Armstrong distributed a draft of an amended policy statement regarding licensees working on an expired license. The amended policy added the statement "If the individual refuses to comply with the administrative policy and asserts that he/she is exempt from licensure under Tenn. Code Ann. § 63-14-105, the Board's administrative staff will refer the matter to the Office of Investigations in the Department of Health for review." Ms. Armstrong stated that we acknowledge that this problem exists and the board cannot overlook an individual working on an expired license. Ms. Bell stated that the point of the matter is holding oneself out as being a dispensing optician, name tag, business cards, etc. Ms. Bell stated that the health related boards are going to work with the optometry board to make them aware of this problem.

Upon discussion, Ms. Moyer made a motion, seconded by Ms. Hawkins, to adopt the amended policy statement. The motion carried.

Review and discuss consultant policy

Ms. Armstrong stated at the last board meeting, the board had questions regarding the consultant policy. Ms. Armstrong stated that the board has the authority to select a board consultant to the division.

Mr. Agee reviewed the process for obtaining consultants to the board. Mr. Agee stated that we go down the list in alphabetical order, if the consultant is called three times and they are unable to assist, OGC removes them from the list.

Ms. Bell stated that they could put it in the news letter and see if anyone is interested in becoming a consultant.

Upon discussion, the board decided it would be best to put it in the newsletter.

Discuss and consider new licensees

After review, Ms. Moyer made a motion, seconded by Ms. Hawkins, to ratify the following newly licensed dispensing opticians:

Dixie Armstrong
Barbara Ann Boldea
Bethanne Brewer
Sherry Hardebeck
Daniel Waine

The motion carried.

After review, Ms. Hawkins made a motion, seconded by Ms. Moyer, to approve the following reinstatements:

Regina Downing
Tara Jordan
Michael Roberts

The motion carried.

The board reviewed the file of **Rebecca Loree Anderson** for reinstatement. Ms. Burk stated that Ms. Anderson was working on an expired license. She paid a total of \$3,520.00 and obtained her continuing education. Upon review, Ms. Hawkins made a motion, seconded by Ms. Moyer, to accept Rebecca Anderson's application for reinstatement. The motion carried.

Request for approval or waive continuing education

The board reviewed a letter from **Rebecca Baumgartner** requesting a waiver of continuing education hours for 2003 and the \$100 continuing education penalty fee. Ms. Burk said she sent Ms. Baumgartner a letter informing her that her license was in active status at the time of the audit and she would need to send in her continuing education hours when she put her license into retirement. Upon discussion, Ms. Moyer made a motion, seconded by Ms. Hannah, to send Ms. Baumgartner a letter denying the request and stating the board policy. The motion carried.

The board reviewed a letter from **Tammy Maria** requesting waiver of 2004 continuing education hours due to complications during pregnancy. Upon review, Ms. Moyer made a motion, seconded by Ms. Hawkins that Tammy Maria can make up the hours in 2005. The motion carried.

The board reviewed a letter from **Anna Crawford** requesting waiver of 2003 audit due to parent illness. Mr. Godsey requested we get clarification and proof of 2004 continuing education hours before the board makes a decision on Ms. Anna Crawford.

The board reviewed a letter from **Deborah Todd** requesting a waiver of continuing education for 2003 due to undue hardships. Ms. Moyer requested we send a letter to Ms. Todd requesting additional information and proof of her 2004 continuing education hours.

The board reviewed a letter from **Wanda Pursley** requesting waiver of 8 continuing education hours for 2003 due to hardship. Upon review, Ms. Stacey made a motion, seconded by Ms. Hannah to deny Ms. Pursley's request and have her make up her continuing education hours for 2003 and submit the \$100 penalty fee by May 6, 2005. The motion carried.

The board reviewed a letter from **Charlene Hinshaw** requesting waiver of 2003 continuing education hours. Upon review, Ms. Hannah made a motion, seconded by Ms. Hawkins to deny this request and have her submit the \$100 penalty fee by May 6, 2005. The motion carried.

The board reviewed a letter from **Denise Hix** requesting she take the exam a month before her apprenticeship is completed. Upon review, Ms. Moyer made a motion, seconded by Ms. Hawkins, to require Ms. Hix to continue her apprenticeship and take the exam upon completion. The motion carried.

The board reviewed a semi evaluation form for **Marcus Merrell** which stated that Mr. Murrell was terminated from the Wal-Mart Eye Clinic in December 2004 and will no longer be under the supervision of Ms. Linda Kilburn. Upon review, Ms. Hannah made a motion, seconded by Ms. Hawkins to rescind Mr. Merrells application. The motion carried.

The board reviewed a letter from **Judie Testa** requesting her two (2) years prior to 1996 can be counted toward her apprenticeship. Upon review, Ms. Hawkins made a motion, seconded by Ms. Moyer to deny Ms. Testa's request, tell her to start over. The motion carried.

The board reviewed a letter from **Pamela Burns** requesting the board allow her to make up the paper work needed to take the exam. Upon review, Ms. Moyer made a motion, seconded by Ms. Hawkins, to deny the request of Ms. Burns. The motion carried.

New Correspondence

Mr. Godsey requested we update the continuing education page on the website.

Mr. Godsey expressed his appreciation to Ms. Kathy Hawkins for all her contributions to the Board. Mr. Godsey said the good news is Ms. Hawkins has agreed to become a board consultant.

With no other board business to conduct, Ms. Hannah made a motion, seconded by Ms. Moyer to adjourn the meeting at 2:43 p.m. The motion carried.

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